

John Heykoop dba Eagle Towing v Michigan State Police, et al

USDC-WD No: 1:18-cv-00632

Honorable Robert J. Jonker

Magistrate Judge Phillip J. Green

EXHIBIT 12

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN HEYKOOP doing business as
EAGLE TOWING,

Plaintiff,

v

MICHIGAN STATE POLICE, DAVID
ROESLER, JEFFREY WHITE, and
CHRIS McINTIRE,

Defendants.

NO. 1:18-cv-00632

HON. ROBERT J. JONKER

MAG. PHILLIP J. GREEN

Christopher Scott Patterson (P74350)
John Seamus Brennan (P55431)
Fahey Schultz Burzich Rhodes PLC
Attorney for Plaintiff
4151 Okemos Road
Okemos, MI 48864
(517) 381-0100

Patrick S. Myers (P81444)
Assistant Attorney General
Attorney for Defendant
Complex Litigation Division
P.O. Box 30736
Lansing, MI 48909
(517) 335-3055

**DEFENDANT CHRIS MCINTIRE'S RESPONSE TO PLAINTIFF'S
FIRST INTERROGATORIES**

INTERROGATORIES

1. Please identify all wreckers or towing companies that have been placed on Defendants' No-Preference Wrecker Rotation List since 2014.

RESPONSE: I have no personal knowledge of which towing companies have been placed on the Rockford Post No-Preference List since 2014. On information and belief, Muskegon County Central Dispatch maintains the

rotation logs but does not document when a company was placed on the List.

2. Please identify all wreckers or towing companies that have been removed from Defendants' No-Preference Wrecker Call List in the past 10 years and state the number of warnings issued to each prior to removal, the number of complaints filed against each, the reason for the removal, and whether the company was later placed back on the list and the reason therefor.

RESPONSE: To my knowledge, no towing company besides Plaintiff has been removed from the Rockford Post No-Preference List in the past 10 years.

3. Please identify the process used for reviewing applications to Defendants' No-Preference Wrecker Call List, as well as the process used for removing a wrecker or towing company from Defendants' No-Preference Wrecker Call List.

RESPONSE: The Rockford Post follows the procedures of MSP Official Order 48. Any application for placement on a Post's No-Preference List must comply with Section 48.3.6.B of MSP Official order 48. The requirements for towing companies applying for a Post's No-Preference List are listed in Section 48.3.5 of MSP Official Order 48. Removal procedures are listed in Section 48.3.12 of MSP Official Order 48.

4. Please identify all wreckers and towing companies that Defendants have called to provide services to motor vehicles pursuant to their placement on

Defendants' No-Preference Wrecker Call List since Plaintiff's removal from the list in November of 2017.

RESPONSE: I have no personal knowledge of which towing companies have been used by the Rockford Post for its No-Preference List since November 2017. On information and belief from Muskegon County Central Dispatch, the following towing companies have been used by the Rockford Post for its No-Preference List since November 2017: A2B Towing & Recovery, Stafford Towing, Reliable Towing Services, ASAP Towing & Recovery, Baxter's Towing, and Ravenna Wrecker Service

5. Please identify any complaint made to Defendants against, about, or related to any wrecker or towing company in which the subject matter involved or was related to an alleged deficiency in the quality or type of service provided, or the fee or rate charged by the wrecker or towing company.

RESPONSE: To my knowledge, the Rockford Post has only received complaints about Plaintiff.

6. Please identify any lawsuit, commenced within the past 10 years, in which either Defendant was a named party including the caption, case number, jurisdiction, date filed, whether ongoing or concluded and if concluded, the date the matter was closed.

RESPONSE: Daniel William Rudd v. City of Norton Shores et al., U.S. District Court for the Western District of Michigan, 1:18-CV-00124-GJQ-

RSK. F/Lt. Chris McIntire was served on March 6, 2018, and the Court granted Defendant McIntire's Motion to Dismiss on August 8, 2018.

7. Please identify the specific grounds for Plaintiff's removal from Defendants' No-Preference Wrecker Call List.

RESPONSE: Plaintiff was removed from the Rockford Post No-Preference List due to the quality of its service, including charging unreasonable rates in violation of MSP Official Order 48.

8. Please identify any and all individuals involved in the determination to remove a wrecker or towing company from Defendants' No-Preference Wrecker Call List.

RESPONSE: Pursuant to MSP Official Order 48, I made the determination to remove Plaintiff from the Rockford Post No-Preference List.

9. Please identify any and all individuals (other than Plaintiff) that were involved in or have knowledge of the determination to remove Plaintiff from Defendants' No-Preference Wrecker Call List.

RESPONSE: Captain David Roesler was made aware of the decision to remove Plaintiff from the Rockford Post No-Preference List.

10. Please identify all persons within MSP who drafted or had significant input to terms and conditions of Official Order No. 48.

RESPONSE: I have no personal knowledge of the individuals involved in the drafting of MSP Official Order 48.

11. Please state whether or not there is or has been an investigation of MSP practices relating to the establishment, maintenance and/or disposition of wrecker/towing no-preference lists and identify the person or persons, if any, primarily involved in such investigation(s).

RESPONSE: I have no personal knowledge whether any investigation of MSP practices regarding the Posts' No-Preference Lists has been conducted.



Chas Muhling
MI State Police

Subscribed and sworn to before me,
this 17 day of October, 2018.

Dela Lynn Beatty
Notary Public
State of Michigan, County of Kent
My commission expires: 9/7/2025

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN HEYKOOP doing business as
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HON. ROBERT J. JONKER

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ROESLER, JEFFREY WHITE, and
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**DEFENDANT JEFFREY WHITE'S RESPONSE TO PLAINTIFF'S
FIRST INTERROGATORIES**

INTERROGATORIES

1. Please identify all wreckers or towing companies that have been placed on Defendants' No-Preference Wrecker Rotation List since 2014.

RESPONSE: I have no personal knowledge of which towing companies have been placed on the Hart Post No-Preference List since 2014. On information and belief from Mason-Oceana County Central Dispatch, no

new towing companies have been placed on the Hart Post No-Preference List since 2014.

2. Please identify all wreckers or towing companies that have been removed from Defendants' No-Preference Wrecker Call List in the past 10 years and state the number of warnings issued to each prior to removal, the number of complaints filed against each, the reason for the removal, and whether the company was later placed back on the list and the reason therefor.

RESPONSE: To my knowledge, no towing company besides Plaintiff has been removed from the Hart Post No-Preference List in the past 10 years.

3. Please identify the process used for reviewing applications to Defendants' No-Preference Wrecker Call List, as well as the process used for removing a wrecker or towing company from Defendants' No-Preference Wrecker Call List.

RESPONSE: The Hart Post follows the procedures of MSP Official Order 48. Application for placement on a Post's No-Preference List must comply with Section 48.3.6.B of MSP Official order 48. The requirements for towing companies applying for a Post's No-Preference List are listed in Section 48.3.5 of MSP Official Order 48. Removal procedures are listed in Section 48.3.12 of MSP Official Order 48.

4. Please identify all wreckers and towing companies that Defendants have called to provide services to motor vehicles pursuant to their placement on

Defendants' No-Preference Wrecker Call List since Plaintiff's removal from the list in November of 2017.

RESPONSE: I have no personal knowledge of which towing companies have been used by the Hart Post for its No-Preference List since November 2017. On information and belief from Mason-Oceana County Central Dispatch, the following towing companies have been used by the Hart Post for its No-Preference List since November 2017: Gundy's Garage & Towing and Neal's Auto & Towing.

5. Please identify any complaint made to Defendants against, about, or related to any wrecker or towing company in which the subject matter involved or was related to an alleged deficiency in the quality or type of service provided, or the fee or rate charged by the wrecker or towing company.

RESPONSE: To my knowledge, the Hart Post has only received complaints about Plaintiff and one complaint about Gundy's Garage & Towing.

6. Please identify any lawsuit, commenced within the past 10 years, in which either Defendant was a named party including the caption, case number, jurisdiction, date filed, whether ongoing or concluded and if concluded, the date the matter was closed.

RESPONSE: I have no independent recollection of any other lawsuit commenced within the past 10 years in which I was a named party.

7. Please identify the specific grounds for Plaintiff's removal from Defendants' No-Preference Wrecker Call List.

RESPONSE: Plaintiff was removed from the Hart Post No-Preference List due to the quality of its service, in violation of MSP Official Order 48.

8. Please identify any and all individuals involved in the determination to remove a wrecker or towing company from Defendants' No-Preference Wrecker Call List.

RESPONSE: Pursuant to MSP Official Order 48, I made the determination to remove Plaintiff from the Hart Post No-Preference List.

9. Please identify any and all individuals (other than Plaintiff) that were involved in or have knowledge of the determination to remove Plaintiff from Defendants' No-Preference Wrecker Call List.

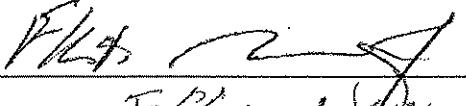
RESPONSE: Captain David Roesler was made aware of the decision to remove Plaintiff from the Hart Post No-Preference List.

10. Please identify all persons within MSP who drafted or had significant input to terms and conditions of Official Order No. 48.

RESPONSE: I have no personal knowledge of the individuals involved in the drafting of MSP Official Order 48.

11. Please state whether or not there is or has been an investigation of MSP practices relating to the establishment, maintenance and/or disposition of wrecker/towing no-preference lists and identify the person or persons, if any, primarily involved in such investigation(s).

**RESPONSE: I have no personal knowledge whether any investigation of
MSP practices regarding the Posts' No-Preference Lists has been
conducted.**



Jeffrey C. Weller
MI State Police

Subscribed and sworn to before me,
this 17th day of October, 2018.

Vicki S. Hasty
Notary Public
State of Michigan, County of Oceana
My commission expires: 8-6-19

Vicki S. Hasty, Notary Public
Oceana County, Michigan
My Comm. Expires: 8/6/2019